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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,934	08/09/2001	Paul Patterson	4008-00201	5816
30652	7590	01/29/2004		
CONLEY ROSE, P.C. 5700 GRANITE PARKWAY, SUITE 330 PLANO, TX 75024				
			EXAMINER MATHEW, FENN C	
			ART UNIT 3764	PAPER NUMBER 9

DATE MAILED: 01/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/925,934

Applicant(s)

PATTERSON, PAUL

Examiner

Fenn C Mathew

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 14-23 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 and 13 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 11 is/are rejected.
- 7) ☒ Claim(s) 8-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election with traverse of Group 1 in Paper No. 8 is acknowledged. The traversal is on the ground(s) that the claims as amended by the applicant satisfy the requirement that the product is necessary to perform the process as claimed. This is not found persuasive because applicant has not provided any structural limitation in the process claims relating to the support structure. The process claims make no mention of the support structure, but rather only require a rowing machine on a support surface (the ground) that is capable of performing rowing motions in selected axes. There exist rowing machines in the art that satisfy this requirement of multi-angled rowing.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 14-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 8.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7, 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Lin (U.S. 5,902,220). Referring to claim 1, as broadly drafted and interpreted, Lin discloses a support structure comprising a base member (6) a first platform (1) for supporting a first selected portion of a device used for exercise (user supporting portion in figures) wherein the platform is coupled to the base member and movable between a first position in which the first platform is approximately level with the base member to a second position wherein first platform is elevated (see figs. 6, 5).

5. Referring to claim 2, Lin discloses a locking mechanism to secure the first selected portion of the exercise device to the first platform (inherently secured).

6. Referring to claim 3, Lin discloses second platform (2) for supporting a second selected portion of a device used for exercise (user supporting portion in figures) wherein the platform is coupled to the base member and movable between a first position in which the first platform is approximately level with the base member to a second position wherein first platform is elevated (see figs. 6, 5).

7. Referring to claim 4, Lin discloses a locking mechanism to secure the second selected portion of the exercise device to the second platform (inherently secured).

8. Referring to claim 5, Lin discloses the device capable of a second position wherein the first platform is elevated a first distance above the base member and the second platform is elevated a second distance above the platform wherein the second distance is approximately twice the first distance.

9. Referring to claim 6, Lin discloses a plurality of support levers (5, 7) that elevate the first and second platforms between desired positions.

10. Referring to claim 7, Lin discloses in the broadest interpretation, a support lever having first and second ends (3) with the first and second ends being connected to a first and second end of the first and second platform. (Support level is generally U-shaped, ends of platforms meet at pivoting joints. As broadly as the claim is drafted, it can be said that one end of the U meets the pivotal joint of first and second platform on either side).

11. Referring to claim 11, Lin discloses the position of the first and second platforms can be adjusted and maintained at a plurality of elevations. (See figs. 4-8).

#### ***Allowable Subject Matter***

12. Claims 8-10 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art of record fails to teach the support lever with the above limitations and further having the support lever comprised of a first portion which includes the first end and a second portion which includes the second end, the first portion of the support lever having a juncture with the second portion of the support lever which defines an obtuse angle.

13. Claims 12-13 are allowed. The prior art of record fails to teach a rowing machine including the support structure as claimed.

#### ***Conclusion***

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14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hoover U.S. 5,681,250

Kruyt U.S. 4,996,731

Engle U.S. 5,050,589

Schedel U.S. 5,840,001

Tanaka U.S. 4,408,105

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C Mathew whose telephone number is (703) 305-2846. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



NICHOLAS D. LUCCHESI  
SUPER SENIOR PATENT EXAMINER  
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fcm  
January 25, 2004